



Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D.C. 20554

CGB

02-278

OCT 22 2003

Control No 0302889/aw

Mr John R Ferguson
203 Ferndale Drive
Charleston, WV 25302-4311

RECEIVED

OCT 28 2003

Dear Mr. Ferguson:

Federal Communications Commission
Office of the Secretary

Thank you for your letter to Congresswoman Shelley Moore Capito regarding the Federal Communications Commission's (Commission or FCC) recent amendment to the rules implementing the Telephone Consumer Protection Act of 1991 (TCPA). Specifically, you are expressing concern about the impact of the national "Do Not Call" list that went into effect on October 1, 2003. Congresswoman Capito forwarded your correspondence to the Commission for our review and requested that we respond directly to you.

On September 18, 2002, the Commission released a Notice of Proposed Rulemaking (NPRM) in CG Docket No. 02-278, seeking comment on whether it should change its rules that restrict telemarketing calls and unsolicited fax advertisements, and if so, how. The NPRM sought comment on the option to establish a national do-not-call list, and how such action might be taken in conjunction with the national do-not-call registry rules adopted by the Federal Trade Commission (FTC) and the numerous state do-not-call lists. In addition, the Commission sought comment on the effectiveness of the TCPA's unsolicited facsimile advertisement rules, including the Commission's determination that a prior business relationship between a fax sender and recipient establishes the requisite consent to receive advertisements via fax. The Commission received over 6,000 comments from individuals, businesses, and state governments on the TCPA rules.

The record in this proceeding, along with our own enforcement experience, demonstrated that changes in the current rules are warranted, if consumers and businesses are to continue to receive the privacy protections contemplated by the TCPA. As explained in the Commission's Report and Order released on July 3, 2003, the record indicated that many consumers and businesses receive calls and faxes they believe they have neither solicited nor given their permission to receive.

[Handwritten signature]

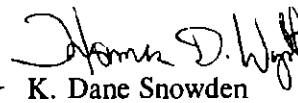
[Illegible printed name]

Information regarding "telephone solicitations" is enclosed. The Commission has available an e-mail service designed to apprise consumers about developments at the Commission, to disseminate consumer information materials prepared by the Commission to a wide audience and to invite comments from other parties on Commission regulatory proposals. This free service enables consumers to subscribe and receive FCC fact sheets, consumer brochures and alerts, and public notices, among other consumer information. To subscribe, an individual would send an e-mail to subscribe@info.fcc.gov and in either the subject line or body of the message put `subscribe fcc-consumer-info first name last name` (substitute their first and last name, for example, "subscribe fcc-consumer-info John Doe").

Information on all telecommunications-related issues can be accessed via the Internet from the Commission's Home Page located at <http://www.fcc.gov> and the Consumer & Governmental Affairs Bureau's web site link at <http://www.fcc.gov/cgb> or by calling 1-888-CALL-FCC. TTY users may call 1-888-TELL-FCC.

We appreciate your comments. We have placed a copy of your correspondence in the public record for this proceeding. Please do not hesitate to contact us if you have further questions.

Sincerely,


K. Dane Snowden

Chief

Consumer & Governmental Affairs Bureau

Enclosures

cc The Honorable Shelley Moore Capito

SHELLEY MOORE CAPITO
2ND DISTRICT WEST VIRGINIA

COMMITTEES
TRANSPORTATION & INFRASTRUCTURE
FINANCIAL SERVICES
SMALL BUSINESS

Congress of the United States
House of Representatives
Washington, DC 20515-4802

1431 LONGWORTH H O B
WASHINGTON, DC 20515 4802
202 225 2711

4815 MACCORKLE AVE
CHARLESTON, W V 25304
304-925 5964

300 FOXCROFT AVE
SUITE 102
MARTINSBURG, W V 25401
304-264 8810

WWW.HOUSE.GOV/CAPITO

September 25, 2003

Diane Atkinson
Congressional Liaison Specialist
Federal Communications Commission
445 12th Street, S.W., Room 8-C453
Washington, DC 20554

CGB
TCPA
2829

Dear Mrs. Atkinson

Recently a constituent of mine, John Ferguson, contacted my office with concerns regarding recent FCC rulings. After reviewing the request, I have forwarded the letter to you so that the matter can be more directly handled.

Thank you for your time and effort. Please send any response directly to the constituent.

Sincerely,



Shelley Moore Capito, M.C.

30 SEP 2003 RCUD

View e:\emailobj\200309\1\911130402.txt

From Write your representative <writerep@www6.house.gov>
 Date 9/11/2003 1 03 13 PM
 To wv02wyr@housemail.house.gov
 Subject WriteRep Responses

I am an insurance agent with Mutual of Omaha as well as other Companies. I have a wife and two children. My wife is employed with the Dept of Transportation. My son recently graduated from Marshall with a Masters in geology and works for the Corp of Engineers in Huntington. My daughter is attending Marshall currently and will be a senior next semester. I'm telling you this to establish the fact that I'm not some irate citizen just striking out at someone.

My concern about the FCC ruling regarding insurance companies/agents and their ability to contact potential client by using the telephone for a face to face sales presentation. My main focus is Medicare Supplements. Persons turning 65 years of age were contacted by insurance agents to determine if they were in need of a Supplement. Some knew they needed one, some didn't. Others had retirement packages which included a Supplement, but needed additional life insurance. In my 12 years as an insurance agent, I've had only a handful of contacts who were upset with my call. Most people were thankful for my willingness to provide them information, whether I sold them anything or not.

By the FCC's ruling, not only will my income level be severely lowered, but I'm sure there will be many older folks who will go without the proper coverage, simply because no one was allowed to call them to explain their options. Mailings are fine, but how many people can look at written insurance information and determine what they need on their own.

The information that responsible insurance agents provide to their clients or potential clients, is not something they can ascertain by picking up a publication and reading. As one commercial on the radio says, "be your own insurance professional". That's about as ignorant as me being my own accountant or attorney. We do go to school, lectures, seminars and let's not forget our continuing education classes, to be up to date on current policies and what they can do for the client. The bottom line is this. I feel my freedom of speech rights have been violated by the FCC telling me who I can talk to and who I can't. They are directly effecting my standard of living and my means of providing for my family. Please help and do not let this issue fade away as if no one cares.

[REDACTED]

==== Original Formatted Message Starts Here =====

DATE September 11, 2003 12 01 AM
 NAME John R Ferguson
 ADDR1 203 Ferndale Drive
 ADDR2.
 ADDR3
 CITY Charleston
 STATE West Virginia
 ZIP 25302-4311
 PHONE 304 343 9386
 EMAIL acpcolt@aol.com

msg

I am an insurance agent with Mutual of Omaha as well as other Companies. I have a wife and two children. My wife is employed with the Dept of Transportation. My son recently graduated from Marshall with a Masters in geology and works for the Corp of Engineers in Huntington. My daughter is attending Marshall currently and will be a senior next semester. I'm telling you this to establish the fact that I'm not some irate citizen just striking out at someone.

My concern about the FCC ruling regarding insurance companies/agents and their ability to contact potential client by using the telephone for a face to face sales presentation. My main focus is Medicare Supplements. Persons turning 65 years of age were contacted by insurance agents to determine if they were in need of a Supplement. Some knew they needed one, some didn't. Others had retirement packages which included a Supplement, but needed additional life insurance. In my 12 years as an insurance agent, I've had only a handful of contacts who were upset with my call. Most people were thankful for my willingness to provide them information, whether I sold them anything or not.